

AMENDED IN SENATE MAY 24, 2005

AMENDED IN SENATE MAY 10, 2005

AMENDED IN SENATE APRIL 26, 2005

SENATE BILL

No. 561

Introduced by Senators Runner and Torlakson
(Principal coauthor: Assembly Member Canciamilla)

February 18, 2005

An act to amend Sections 143 and 149 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 561, as amended, Runner. Toll road agreements.

Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements with private entities or consortia for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects. Existing law authorizes the department to construct high-occupancy vehicle and other preferential lanes.

This bill would instead authorize the department to enter into comprehensive development franchise agreements with public and private entities or consortia for specified types of transportation projects, as defined, subject to certain requirements and conditions. The bill would authorize tolls to be collected after the termination of a franchise agreement period, subject to approval of the California Transportation Commission. The bill would require a franchise agreement to allow the department to open a competitive state facility in the same corridor. The bill would authorize the department to

construct and operate high-occupancy vehicle and other preferential lanes as toll facilities. The bill would enact other related provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 143 of the Streets and Highways Code
2 is amended to read:

3 143. (a) Pursuant to Chapter 3 (commencing with Section
4 30800) of Division 17, the department, in cooperation with
5 regional transportation agencies, may solicit proposals, negotiate,
6 and enter into comprehensive development franchise agreements
7 with public and private entities, or consortia thereof, for the
8 construction of transportation projects.

9 (b) For the purpose of facilitating those transportation projects,
10 the agreements between the parties may include provisions for
11 the lease of rights-of-way in, and airspace over or under, these
12 state highways, for the granting of necessary easements, and for
13 the issuance of permits or other authorizations to enable the
14 construction of transportation facilities supplemental to existing
15 state-owned and operated transportation facilities. Facilities
16 constructed by an entity pursuant to an agreement under this
17 section shall, at all times, be owned by the department as an
18 operational part of the state highway system. The agreement shall
19 provide for the lease of those facilities to the franchised entity for
20 up to ~~35~~ 99 years to recover private investments in the form of
21 expended funds together with a reasonable rate of return on those
22 funds, negotiated by the department with the contracting entity.
23 In consideration therefor, the agreement shall provide for
24 complete reversion of the privately constructed facility and the
25 right to collect tolls to the department and any other government
26 entity participating in the funding of the project, if any, at the
27 expiration of the lease at no charge to the department or other
28 government entity.

29 (c) The department may exercise any power possessed by it
30 with respect to the development and construction of state
31 transportation projects to facilitate the development and

1 construction of transportation toll projects initiated pursuant to
2 this section. Agreements for maintenance and police services
3 entered into pursuant to this section may provide for some form
4 of negotiated reimbursement for services rendered by the
5 department and other state agencies. The department may
6 provide services for which it is reimbursed with respect to
7 preliminary planning, environmental certification, environmental
8 review, preliminary design, design, right-of-way acquisition, and
9 construction of these transportation projects.

10 (d) (1) Agreements entered into pursuant to this section shall
11 authorize the contracting entity to impose tolls for use of a
12 facility constructed by it, and shall require that over the term of
13 the franchise, that the toll revenues will be applied to payment
14 some or all of the capital outlay costs for the project, the costs
15 associated with operations, toll collection, administration of the
16 facility, reimbursement to the department or other government
17 entity for the costs of services to develop and maintain the
18 project, police services, and a reasonable return on investment to
19 the contracting entity. The agreement shall require that
20 notwithstanding Sections 164, 188, and 188.1, any excess toll
21 revenue either be applied to any indebtedness incurred by the
22 contracting entity with respect to the project or be paid into the
23 State Highway Account for use in the same transportation
24 corridor as the toll facility, or both.

25 (2) The collection of tolls for the use of these facilities may be
26 extended by the commission at the expiration of the franchise
27 agreement.

28 (e) The plans and specifications for each transportation project
29 constructed pursuant to this section shall comply with the
30 department's then-existing standards for similar state
31 transportation projects. A facility constructed by and leased to
32 another entity shall, during the term of the lease, be deemed to be
33 a part of the state highway system for purposes of identification,
34 maintenance, enforcement of traffic laws, and for the purposes of
35 Division 3.6 (commencing with Section 810) of Title 1 of the
36 Government Code.

37 (f) The assignment authorized by subdivision (c) of Section
38 130240 of the Public Utilities Code is consistent with this
39 section.

(g) Each franchise agreement entered into by the department shall include provisions authorizing the department to open competitive facilities to traffic within the designated corridor. Each franchise agreement entered into by the department shall also include provisions authorizing the department to construct any safety project needed within the designated corridor.

(h) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Sections 149.4, 149.5, and 149.6.

(i) As used in this section, “transportation projects” ~~mean do not include the conversion of any mixed-flow lanes to toll facilities.~~ *“Transportation projects” include any of the following:*

(1) Shared high-occupancy vehicle lanes where high-occupancy vehicles are permitted free passage.

(2) Dedicated exclusive truck lanes.

(3) Mixed-flow toll lanes and free lanes.

(4) Toll lanes for all vehicles other high-occupancy vehicles.

SEC. 2. Section 149 of the Streets and Highways Code is amended to read:

149. The department may construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles, and may authorize or permit such exclusive or preferential use of designated lanes on existing highways that are part of the State Highway System. Prior to constructing such lanes, the department shall conduct competent engineering estimates of the effect of such lanes on safety, congestion, and highway capacity.

To the extent they are available, the department may apply for and use federal aid funds appropriated for the design, construction, and use of such exclusive or preferential lanes, but may also use other State Highway Account funds, including other federal aid funds, for those purposes where proper and desirable.

The department may construct and operate exclusive or preferential lanes under this section as toll facilities.

This section shall be known and may be cited as the Carrell Act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety

1 within the meaning of Article IV of the Constitution and shall go
2 into immediate effect. The facts constituting the necessity are:
3 In order to provide the state with the necessary tools to
4 alleviate the current transportation crisis as quickly as possible, it
5 is necessary that this act take effect immediately.

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